

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7366**

**BILL NUMBER:** HB 1264

**NOTE PREPARED:** Mar 8, 2004

**BILL AMENDED:** Mar 4, 2004

**SUBJECT:** Interlock Ignition Devices.

**FIRST AUTHOR:** Rep. Dvorak

**FIRST SPONSOR:** Sen. Wyss

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. It makes tampering with an ignition interlock device a Class B misdemeanor under certain circumstances.
- B. It requires a court in a county having an ignition interlock program to prohibit certain OWI offenders from operating a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device.
- C. It provides that a court may order installation of an ignition interlock device as: (1) a condition of certain deferred prosecution programs; (2) an alternative to an administrative driver's license suspension; and (3) a condition of participation in a post-conviction alcohol abuse deterrent program.
- D. It requires a court that orders installation of an ignition interlock device to notify the Bureau of Motor Vehicles (BMV), and requires the BMV to record this requirement in the person's driving record.
- E. It provides that certain out-of-state convictions may be used as a basis to enhance the penalty for OWI causing serious bodily injury and OWI causing death.
- F. It provides that a license suspension for certain controlled substance convictions may be ordered only if the controlled substance conviction involved the use of a motor vehicle.

**Effective Date:** July 1, 2004.

**Explanation of State Expenditures:** *Provision E – Enhancement of Criminal Penalties:* Out-of-state convictions for operating while intoxicated could be used to enhance an OWI causing serious bodily injury from a Class D felony to a Class C felony and to enhance an OWI causing a death from a Class C to a Class B felony. This could lengthen the prison sentences of some offenders assigned by the sentencing court.

The number of beds that would be needed to accommodate this population for a longer sentence length would begin in 2007 and reach a steady rate in FY 2012. No information is currently available concerning the

number of offenders who have had OWI convictions in other states. However, based on the average number of offenders committed to DOC each year and the percentage with prior convictions, it is likely that fewer than 20 new beds would be needed in all to accommodate this population for a longer period of time. The number of these beds that would be associated with persons having a prior conviction from another state is not known, but would likely be small.

The average expenditure to house an adult offender was \$26,825 in FY 2002. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

***Provision F – License Suspensions for Using a Motor Vehicle for Committing Certain Offenses:*** If a person is convicted of any of the following offenses and the court finds that a motor vehicle was used to commit the offense, then the court shall suspend the person's license and motor vehicle registration for between six months and two years. The offenses affected by this provision include:

- dealing in cocaine or a narcotic drug; a schedule I, II, III, IV, or V controlled substance; a counterfeit substance; or marijuana, hash oil, or hashish.
- possession of cocaine or narcotic drug, controlled substance, marijuana, hash oil, or hashish.

Depending on the findings of the court, this provision could increase the number of license suspensions.

**Explanation of State Revenues: Provision A:** The bill increases the penalty for a person who knowingly or intentionally tampers with an ignition interlock device from a Class B infraction to a Class B misdemeanor.

This provision potentially increases revenue to the Common School Fund, but reduces revenue deposited in the state General Fund. Currently, the maximum judgment for a Class B infraction is \$1,000, which is deposited into the state General Fund. The maximum fine for a Class A and a Class B misdemeanor is \$1,000, and the maximum fine for a Class C and Class D felony is \$10,000.

Fines for misdemeanors and felonies are deposited into the Common School Fund.

Besides the issuance of fines, the sentencing court may assess a court fee if a guilty verdict is entered. The court fee for an infraction is \$70, while the court fees for misdemeanors and felonies are \$120. The state receives 70% of the court fee that is assessed when a guilty verdict is entered and the fee is collected in a court of record and 55% if a case is filed in a city or town court. If a criminal action, infraction, or ordinance violation involves a traffic violation, including this proposed offense, a highway work zone fee of either \$0.50 or \$25.50 is assessed.

**Explanation of Local Expenditures: Provision A – Tampering with an Ignition Interlock Device:** Local expenditures could increase if offenders are incarcerated in local jails instead of being only fined. A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost of housing an offender in jail is reported to be \$44. There is no term of imprisonment for an infraction. BMV reports that the following number of guilty citations for tampering with an ignition interlock during each calendar year between 1999 and 2003.

Number of Guilty Citations for Tampering With An Ignition Interlock by Calendar Year				
<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
1	2	2	3	3

**Explanation of Local Revenues: Provision A:** Local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors. Court fees for both misdemeanors and felonies are \$120. Twenty-seven percent of court fees that are collected are deposited in the county general fund when a guilty verdict is entered for a misdemeanor. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. From city and town courts, the county general fund receives 20% of the court fee while the city or town general fund receives 25%.

**State Agencies Affected:** Department of Correction; Criminal Justice Institute; Department of Transportation; Bureau of Motor Vehicles.

**Local Agencies Affected:** Trial courts; local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association; Jerry McCorry, Director of Drug Free/Impaired/Dangerous Driving Division of the Criminal Justice Institute, 317-232-4220; Bureau of Motor Vehicles; Department of Correction.

**Fiscal Analyst:** Mark Goodpaster, 317-232-9852.